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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES,

Plaintiff,

v.

MELVIN SHIELDS, ET AL.,

Defendant.

Case No. CR 12-00410 RMW/PSG

**APPLICATION TO MODIFY
CONDITIONS OF PRETRIAL RELEASE
TO PERMIT MELVIN SHIELDS TO
TRAVEL TO THE EASTERN DISTRICT
OF NORTH CAROLINA VIA THE
MIDDLE DISTRICT OF NORTH
CAROLINA; DECLARATION OF SHIRA
KIEVAL; [PROPOSED] ORDER**

Melvin Shields, by and through counsel, hereby requests that the Court modify his conditions of pretrial release to permit him to travel to the Eastern District of North Carolina via the Middle District of North Carolina, from August 10, 2013 through August 18, 2013. The reason for this request is that Mr. Shields's father is ill and essentially bedridden and cannot visit Mr. Shields. Additionally, Mr. Shields would visit his son, who attends community college in the same area and is living in the Eastern District of North Carolina this summer while taking classes necessary for graduation.

Respectfully submitted,

Dated: July 25, 2013

/s

Thomas J. Nolan
Attorney for Defendant Melvin Shields

1 I, Shira Kieval, declare the following:

2 1. I am an attorney licensed to practice in the State of California and the United States
3 District Court, Northern District of California.

4 2. Thomas J. Nolan, senior partner at the firm of Nolan, Armstrong, and Barton, LLP,
5 in Palo Alto, California, is counsel of record in this case, appointed pursuant to the Criminal
6 Justice Act. I have been approved to assist Mr. Nolan with this case.

7 3. Mr. Shields is charged with a violation of 18 U.S.C. §1349, conspiracy to commit
8 wire, mail, and bank fraud, violations of 18 U.S.C. §1343 & §2, wire fraud and aiding and
9 abetting, 18 U.S.C. §1341 & §2, mail fraud and aiding and abetting, 18 U.S.C. §1344 & §2, bank
10 fraud and aiding and abetting, 18 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. §§ 240.10b-5, and 18
11 U.S.C. §2, securities fraud and aiding and abetting, and 18 U.S.C. §98(a)(1)(C) & §2461(C),
12 forfeiture of proceeds of specified unlawful activity.

13 4. Mr. Shields lives in Caldwell County, North Carolina, which is located in the
14 Northern District of North Carolina.

15 5. Mr. Shields was released on May 30, 2012 by Judge David Keesler of the Northern
16 District of North Carolina.

17 6. A condition of Mr. Shields' release is that he is not to travel outside the Northern
18 District of North Carolina.

19 7. A condition of Mr. Shields' release, pursuant to an order of this Court on July 25,
20 2012, is that Mr. Shields is subject to a daily curfew that is electronically monitored by Pretrial
21 Services.

22 8. Mr. Shields is currently supervised by Pretrial Services Officer in the Northern
23 District of California, Kim Do and North Carolina Probation Officer Gerald Patton.

24 9. I am informed and believe that Mr. Shields's father is ill and essentially bedridden.
25 He is a 62 year old Vietnam Veteran on total disability. He is not able to visit Mr. Shields.

26 10. I am informed and believe that the elder Mr. Shields resides in Newport, North
27 Carolina, which is located in the Eastern District of North Carolina. Mr. Shields has not seen his
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1 father since February, when he was last permitted to travel to the Eastern District of North
2 Carolina.

3 11. I am informed and believe that Mr. Shields's son attends community college in
4 Moorhead City, North Carolina. Mr. Shields's son resides with his grandfather (Mr. Shields's
5 father) in Newport, North Carolina. Mr. Shields's son has remained in the Eastern District of
6 North Carolina this summer in order to take summer classes that will enable him to graduate this
7 coming spring.

8 12. I am informed that, if given permission, Mr. Shields would travel to Newport by
9 car. The approximate drive time is 5 hours and 15 minutes, and includes travel through the
10 Middle District of North Carolina.

11 13. On July 17, 2013, I spoke with Officer Do. She explained that Mr. Shields has
12 been compliant, and that Pretrial Services has requested that the condition of electronic monitoring
13 be removed. However, because Mr. Shields is still subject to electronic monitoring, then it is
14 Pretrial Services policy that she cannot support a request for overnight travel, because the
15 overnight travel cannot be monitored.

16 14. On July 24, 2013, I spoke with Officer Patton. He explained that, due to office
17 policy, and because Mr. Shields is still subject to electronic monitoring, he cannot support this
18 travel request. If an Order grants Mr. Shields permission to travel, he asks that Mr. Shields not
19 remove his electronic monitoring device, due to the logistical issues involved in replacing the
20 device.

21 15. On July 17, 2013, I spoke with the Assistant U.S. Attorney assigned to this case,
22 Joseph Fazioli, about his position regarding this travel request. Mr. Fazioli defers to Pretrial.

23 16. In February 2013, Mr. Shields was permitted to travel through the Middle District
24 of North Carolina to the Eastern District of North Carolina in order to visit his father and son. On
25 information and belief, he did so without incident. He was not subject to electronic monitoring
26 during this trip.

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1 17. In June 2013, Mr. Shields was permitted to fly to the Northern District of
2 California in order to meet with counsel. On information and belief, he did so without incident.
3 He was not subject to electronic monitoring during this trip.

4 18. The only Form 8 filed in this case was filed on February 13, 2013, in anticipation
5 of a February 14 hearing regarding the removal of the location monitoring condition. Pretrial
6 Services did not oppose removal of the location monitoring condition at that hearing.

8 I declare under penalty of perjury that the foregoing is true and correct except for those
9 matters stated on information and belief and as to those matters I am informed and believe them to
10 be true. Executed this 25th day of July, 2013 at Palo Alto, California.

/s/

Shira Kieval
Attorney for Defendant Melvin Shields

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

UNITED STATES,

Case No. CR 12-00410

Plaintiff,

V.

RUSTY SHIELDS, ET AL.,

**[PROPOSED] ORDER TO MODIFY
CONDITIONS OF PRETRIAL RELEASE
TO PERMIT MELVIN SHIELDS TO
TRAVEL TO THE EASTERN DISTRICT
OF NORTH CAROLINA VIA THE
MIDDLE DISTRICT OF NORTH
CAROLINA**

Defendant.

GOOD CAUSE APPEARING.

IT IS HEREBY ORDERED that Defendant Rusty Shields' conditions of pretrial release shall be modified to permit him to travel to the Eastern District of North Carolina via the Middle District of North Carolina from August 10, 2013 to August 18, 2013.

Dated:

The Hon. Paul S. Grewal
Magistrate Judge of the U.S. District Court